

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDDIE CHARLES MAHAN,

Defendant-Appellant.

UNPUBLISHED

August 19, 1997

No. 188282

Lake Circuit Court

LC No. 93-002971-FH

Before: Sawyer, P.J., and Bandstra and E. A. Quinnell*, JJ.

MEMORANDUM.

Defendant pleaded guilty to possession of a loaded shotgun in a motor vehicle, MCL 750.227c; MSA 28.424(3), and received a sentence of one-year probation. After the expiration of the one-year period of probation, the trial court amended the order of probation to extend defendant's probation for an additional two years. Subsequently, the trial court determined defendant to be in violation of the terms of probation, following a contested hearing, and sentenced defendant to sixteen to twenty-four months' imprisonment. Defendant appeals as of right. We affirm.

The trial court's extension of the term of defendant's probation did not violate the terms of the plea agreement which secured defendant's initial guilty plea. *People v Johnson*, 210 Mich App 630, 632-635; 534 NW2d 255 (1995). Moreover, the trial court had jurisdiction to amend the probation order and extend the length of defendant's period of probation, even though the initial term of probation had expired. *People v Marks*, 340 Mich 495, 501-502; 65 NW2d 698 (1954). In the absence of our Supreme Court's overruling or modification of its decision in *Marks*, we are bound by *Marks*. *Boyd v W G Wade Shows*, 443 Mich 515, 523; 505 NW2d 544 (1993). Therefore, we decline defendant's invitation not to follow *Marks*. Finally, we decline to address defendant's due process challenge to MCL 771.5(1); MSA 28.1132(1), in light of our conclusion that *Marks* controls the resolution of defendant's jurisdictional challenge.

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ David H. Sawyer
/s/ Richard A. Bandstra
/s/ Edward A. Quinnell